

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS**

November 7, 2011 – 3:00 PM

J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING
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Present: Chad Mitchell, Chairman
Carl Ford, Vice-Chairman
Jon Barber, Member
Raymond Coltrain, Member
Jim Sides, Member

County Manager Gary Page, Clerk to the Board Carolyn Athey, County Attorney Jay Dees and Finance Director Leslie Heidrick were present.

Chairman Mitchell convened the meeting at 3:00 pm.

Chairman Mitchell provided the Invocation and also led the Pledge of Allegiance.

CONSIDER APPROVAL OF THE MINUTES

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the minutes of the October 17, 2011 Commission Meeting passed unanimously.

CONSIDER ADDITIONS TO THE AGENDA

- Commissioner Sides moved to add a discussion regarding the North Carolina Department of Transportation's proposed roundabout at the intersection of Sherrills Ford Road and Briggs and Barringer Roads. The motion was seconded by Commissioner Ford and passed unanimously.

Chairman Mitchell added the issue as agenda item #5b.

CONSIDER DELETIONS FROM THE AGENDA

There were no deletions from the agenda.

CONSIDER APPROVAL OF THE AGENDA

Commissioner Ford moved, Commissioner Barber seconded and the vote to approve the agenda passed unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

Commissioner Sides moved approval of the Consent Agenda. The motion was seconded by Commissioner Coltrain and passed unanimously.

The Consent Agenda consisted of the following:

- A. Modification of Existing Ambulance Franchise for Enochville Fire and Rescue Department
- B. Acceptance of FY 2011 First Responder Training and Exercise Program Grant
- C. Acceptance of Infection Control Training Funds
- D. Waiver of Animal Adoption Fees for Faithful Friends
- E. Set Public Hearing for November 21, 2011 for Majority Petition for Stone Castle Way
- F. Proclamation Honoring Veterans Day in Rowan County

WHEREAS, America was founded on the principles of liberty, opportunity and justice for all; and

WHEREAS, America has called on her men and women in uniform to protect our national security, to advance our national interests and to preserve our rights and independence; and

WHEREAS, on Veterans Day we recognize the men and women of our Armed Forces who have valiantly defended these values throughout our Nation's history; and

WHEREAS, on Veterans Day we also remember and pay tribute to the millions of patriots whose invaluable contributions, courage and sacrifice have secured our freedom and who have kept the peace and defended our values around the globe; and

WHEREAS, our Nation's serviceman and women deserve our deepest appreciation and respect for their selflessness and devotion.

NOW, THEREFORE BE IT RESOLVED, that the Rowan County Board of Commissioners does hereby proclaim November 11, 2011 as VETERANS DAY IN ROWAN COUNTY.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Rowan County Board of Commissioners in keeping with the time honored tradition of recognizing and honoring our veterans, does hereby call upon the citizenry of Rowan County to observe this day with appropriate ceremonies in honor of our veterans, both living and deceased, who have served this country so willingly to preserve the principles of justice, freedom and democracy; to fly the flag and let our veterans know we appreciate their great sacrifice.

G. Resolution Authorizing Sale of Surplus Property

2. PUBLIC COMMENT PERIOD

Chairman Mitchell opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. The following individuals came forward:

- Craig Pierce commented regarding the proposed sale of the fairgrounds property. Mr. Pierce did not feel the proposal was acceptable.

- Larry Wright echoed the comments made by Mr. Pierce. Mr. Wright also expressed hope that the Board of Elections and the Rescue Squad did not ask for taxing authority.

With no one else wishing to address the Board, Chairman Mitchell closed the Public Comment Period.

3. PUBLIC HEARING FOR MAJORITY PETITION FOR SHADOW CREEK TRAIL

Planning Technician Fredda Greer reported that a road located south off the 2200 block of Daugherty Road was currently unnamed and should be named since it accessed three (3) structures. Ms. Greer said the property owners were contacted and given the opportunity to name the road. A petition was returned and the chosen name, Shadow Creek Trail was acceptable to E-911. Staff recommended approval.

Chairman Mitchell opened the public hearing to receive citizen input regarding the proposed road name of Shadow Creek Trail. With no one wishing to address the Board, Chairman Mitchell closed the public hearing.

Commissioner Coltrain moved, Commissioner Ford seconded and the vote to approve the road name of Shadow Creek Trail carried unanimously.

4. PUBLIC HEARING FOR FINANCING OF COMMUNICATIONS PROJECT

Finance Director Leslie Heidrick said the Finance Department had requested and received installment financing proposals for the construction of an E-911 facility and the purchase of communications equipment and other associated assets. Ms. Heidrick reported the amount to be financed was \$9,700,000 for a 10-year term.

Ms. Heidrick said six (6) bids were received. The Finance Department recommended the County accept the low bid from Banc of America Public Capital Corporation (BAPCC) at an interest rate of 2.38%, resulting in interest costs of \$1,183,799.

Ms. Heidrick said the Finance Department also requested that the Board consider approval of the associated Resolutions, Declaration, Budget Ordinance, Budget Amendment and new escrow account with BAPCC.

The installment financing proposals were received as follows:

	<u>Interest Rate</u>
Banc of America Public Capital Corporation	2.380%
SunTrust Equipment Finance & Leasing Corp.	2.415%
RBC Bank	2.730%
Capital One Public Funding	2.890%
Carlyle Capital Markets	3.620%

Non-responsive bid: Sovereign/Santander Bank

2.590%

Commissioner Sides moved approval of the associated resolutions, declaration, budget ordinance, budget amendment and new escrow account with Banc of America. The motion was seconded by Commissioner Barber.

The resolutions were submitted as follows:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY
OF AN INSTALLMENT FINANCING CONTRACT AND RELATED
INSTRUMENTS WITH BANC OF AMERICA PUBLIC CAPITAL CORPORATION
TO FINANCE A COMMUNICATIONS PROJECT

BE IT RESOLVED by the governing body for Rowan County, North Carolina (the "County"):

Section 1. The governing body does hereby find and determine:

- a) The County proposes the constructions of an E-911 Facility and the purchase of communications equipment and other associated assets, as more fully described in the hereinafter mentioned Agreement (collectively, the "Project");
- b) After consideration, the governing body has determined that the most advantageous manner of financing thereof is by an installment contract pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended;
- c) Pursuant to said Section 160A-20, the County is authorized to finance the Project by an installment contract that creates a security interest in the Project financed to secure repayment of the financing; and
- d) Banc of America Public Capital Corporation ("BAPCC") has proposed that they finance the Project pursuant to an Installment Financing Agreement (the "Agreement"), amount not to exceed \$9,700,000, between the County and BAPCC. The proposed term of the Agreement is approximately 10 years, with a proposed interest rate of 2.38%.

Section 2. The governing body hereby authorizes and directs the Finance Director, Leslie E. Heidrick, to execute, acknowledge and deliver the Agreement on behalf of the County in such form and substance as the person executing and delivering such instruments on behalf of the County shall find acceptable. The Clerk is hereby authorized to affix the official seal of the County to the Agreement and attest the same.

Section 3. The proper officer of the County, as named above, is authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this Resolution and the Agreement.

Section 4. Notwithstanding any provision of the Agreement, no deficiency judgment may be rendered against the County in any action for breach of a contractual obligation under the Agreement and the taxing power of the County is not and may not be pledged directly or indirectly

to secure any moneys due under the Agreement, the security provided under the Agreement being the sole security for BAPCC in such instance.

Section 5. The County covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986 (the "Code"), as amended, so that interest on the County's obligations under the Agreement will not be included in the gross income of BAPCC.

Section 6. The County intends that the adoption of this Resolution will be a declaration of the County's official intent to reimburse expenditures for the Project that is to be financed from the proceeds of the BAPCC financing described above. The County intends that funds that have been advanced, or that may be advanced, from the County's General Fund, or any other County fund related to the Project, for project costs may be reimbursed from the financing proceeds.

Section 7. This Resolution shall take effect immediately upon its passage.

RESOLUTION AUTHORIZING THE FILING OF AN
APPLICATION FOR APPROVAL OF A FINANCING AGREEMENT
AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20

WHEREAS, Rowan County, North Carolina (the "County") desires to finance the construction of an E-911 Facility and the purchase of communications equipment and other associated assets (the "Project") over a ten-year term to better serve the citizens of the County; and

WHEREAS, the County desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the County, meeting in regular session on the 7th day of November, 2011, make the following findings of fact:

- 1) The proposed contract is necessary or expedient because it will promote public safety through an improved communications system within the County.
- 2) The proposed contract is preferable to a general obligation bond issue for the same purpose because of low fixed costs and favorable interest rates offered through installment contract financing compared to a general obligation bond issue. The cost of the proposed undertaking is approximately \$11,000,000 and the proposed contract financing of an amount not to exceed \$9,700,000 is in excess of the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the County in the current fiscal year pursuant to Article V, Section 4, of the North Carolina Constitution.
- 3) The sums to fall due under the contract are adequate and not excessive for the proposed purpose based upon estimates received from Motorola Solutions, Inc. and Stewart Cooper Newell Architects.
- 4) The County's debt management procedures and policies are good because they are managed in strict compliance with the law, there have been no defaults on debt service payments and the County is well below its legal debt margin.
- 5) The increase in property taxes necessary to meet the sums to fall due under the proposed contract will be zero cents (\$.00) per \$100 valuation.
- 6) The attorney for the County has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to act on behalf of the County in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this Resolution.

Chairman Mitchell opened the public hearing to receive citizen input regarding the financing for the communications project. With no one wishing to address the Board, Chairman Mitchell closed the public hearing.

Upon being put to a vote, the motion on the floor passed unanimously.

5. DETERMINE FUNDING PROCESS FOR ROWAN RESCUE SQUAD

Commissioner Coltrain recalled that during the budget work session, the funding process for Rowan Rescue Squad (Squad) had been complex. Commissioner Coltrain said he had offered to gather information in order to be able to streamline the funding process for the Squad in the future.

Commissioner Coltrain explained that he had enlisted the aid of Emergency Management Services Director, Frank Thomason, to research counties of similar size, demographics, identify types of services the Squad provides, etc. Commissioner Coltrain expressed appreciation to Mr. Thomason for his professionalism in obtaining the information.

Commissioner Coltrain highlighted the information in the agenda packet and stated he had brought the issue to the Board in an effort to identify ways to fund the Squad in a more consistent and less controversial manner. Commissioner Coltrain said he did not have a plan for the Board to adopt.

Commissioner Coltrain asked Chairman Mitchell to expand on the proposed contract for the Squad in the agenda packet.

Chairman Mitchell said ideas for Squad funding had been discussed for a long time and the idea most recently suggested was to allocate a portion of the tax the County already collects. Chairman Mitchell said even if the County dedicated a portion of the rate to the Squad the discussion would still surface every year. Chairman Mitchell said the only way to guarantee a funding mechanism for any length of time was through a contract. Chairman Mitchell said the contract in the agenda packets was from 1999 and had been modified to include terms, a funding amount, etc. Chairman Mitchell said the contract was drafted and presented for discussion purposes.

Chairman Mitchell stated that on Friday, the Board had received an email from Mr. Thomason that outlined several areas recommended for change.

Commissioner Coltrain said the Squad provided emergency services in the same manner as the volunteer fire departments (VFD). Commissioner Coltrain said the County had contracts with the VFD and the funding for the departments was

based on a fire tax within their districts. Commissioner Coltrain said he did not see any difference, in principle, to subjecting the Squad to the same process and concept as the VFD.

Commissioner Sides recalled the meeting where the Board discussed cutting funding for the Squad and other nonprofits by 10%. Commissioner Sides expressed concern that the September and October monthly County Manager's reports had included statements from EMS that staff was in process of obtaining statistical information at the direction of Board. Commissioner Sides said the Board did not provide that direction.

Commissioner Sides said it disturbed him to see the contract in the agenda packet, as though it was a "done deal". Commissioner Sides continued by saying the Squad Chief had contacted several individual Commissioners and then contacted the County Attorney to draft the contract. Commissioner Sides asked if the contract was provided to the Squad's Board to vet. Commissioner Sides said the Squad was a nonprofit, non-governmental organization and there are times the Squad is in direct competition with county departments for available funds.

Commissioner Sides felt a decision regarding the Squad should not be made based on friendship and politics but rather on what was fair for citizens and county employees. Commissioner Sides said he was disappointed in the way the issue had been handled and with the Squad Chief.

Commissioner Sides said he attended the Squad's 60 year celebration, which he described as a fantastic program where many people received awards and recognition. Commissioner Sides said he applauded each of those individuals and said their thanks were well-deserved.

Commissioner Sides said with the growth of Telecommunications, EMS and the VFD over the years, it was time to evaluate how the Squad fit into the mix. Commissioner Sides felt the Board should determine what services the Squad provided and at what cost. Commissioner Sides reiterated his resentment for the way he felt the issue was being handled.

Commissioner Barber moved for the Board to look those suggested areas and have discussions with the EMS Director and others to address those questions in order to incorporate any changes into the draft version of the contract and to bring the contract back before the Board at the second meeting in November for further discussion and debate. The motion was seconded by Chairman Mitchell.

Commissioner Barber took a moment to remind everyone to honor veterans on Veterans Day.

Commissioner Barber thanked Commissioner Coltrain for working with Mr. Thomason to gather the information in the agenda packets. Commissioner Barber said the Squad was the only nonprofit organization funded by the County that fulfilled the obligation to publicly advertise their meetings in accordance with the County's 2008 funding policy. Commissioner Barber said the meetings were quarterly and made public through a notice in the Salisbury Post. Commissioner Barber said the Squad provided services to the entire County and not to just one district. Commissioner Barber said he also attended the Squad's 60th anniversary celebration and without the 50 Squad volunteers, the County could not provide the current services. Commissioner Barber said he had not seen information "hidden". Commissioner Barber said each year the Commissioners debate how much to fund the Squad and that he felt it was time to update the contract and agree how to fund the Squad.

Commissioner Ford said he attended the 60th anniversary of the Squad and he expressed appreciation for the Squad's volunteers and the valuable and needed services provided. Commissioner Ford said he could not vote on the contract as presented and that he would like to send the matter to committee to be studied and to determine proper protocols for the Squad, fire chiefs, etc. Commissioner Ford said in regards to paying for the Squad's services through a portion of the property tax, he had no problem studying the matter in the budget process.

Commissioner Coltrain suggested assigning one member to work with EMS, the Squad and the Fire and Rescue Association to review the services needed and to identify the most efficient way to provide those services. Commissioner Coltrain said the issue could take 2 to 4 months to review and the conclusions should be brought back to the Commissioners for deliberation.

Commissioner Barber said he would not support a committee.

Commissioner Sides said he appreciated the Squad and the services the organization provided. Commissioner Sides said the Squad's funding had increased from \$197,000 to \$400,000 in just a few years and that time should be taken to determine the proper level of funding. Commissioner Sides said he had no problem with a contract or with a certain amount of money being allocated to the Squad; however, there were questions to be asked before signing a contract.

Upon being put to a vote, the motion on the floor failed 2-3 with Commissioners Coltrain, Sides and Ford dissenting.

Commissioner Coltrain moved to "ask the Chairman to appoint a committee to do what we've heard is needed, to look at the services, involve all the people that are providing those services and come back with recommendations to this Board for the provision of those services, and also some ideas as far as funding mechanisms for those services". The motion was seconded by Commissioner Ford and passed 3-2 with Commissioners Mitchell and Barber dissenting.

Commissioners Barber and Sides both volunteered to serve on the Committee and were appointed by Chairman Mitchell.

Chairman Mitchell said the Board would look forward to receiving the Committee's report.

ADDITION

5B. PROPOSED ROUNDABOUT ON SHERRILLS FORD ROAD

Commissioner Sides discussed a public hearing recently held by the North Carolina Department of Transportation (DOT) concerning a proposed roundabout at the intersection of Briggs and Barringer Roads located off Sherrills Ford Road.

Commissioner Sides said he had been contacted by Representative Harry Warren, who had made an appointment to meet with DOT representatives in Winston-Salem. Commissioner Sides said an invitation was extended to all board members to attend the meeting with Representative Warren. Commissioner Sides said he and Commissioner Ford had attended along with Representative Steen. Commissioner Sides said J.P. Couch, a DOT official, was questioned regarding the possibility of a stoplight or 4-way stop signs. Commissioner Sides said the DOT did not want to put in the 4-way stop signs at a cost of approximately \$15,000. Commissioner Sides said the cost of the roundabout was approximately \$450,000. Commissioner Sides said he came away from the meeting with the impression that the DOT had already made the decision to install the roundabout. Commissioner Sides said he had asked about the 70 people who attended the public hearing and was told that half of them completed a questionnaire. Commissioner Sides said the DOT officials stated that only written comments would be considered.

Commissioner Sides said Representative Warren requested that the Commissioners hold a public forum to invite the 200 identified property owners affected by the roundabout in an effort to get their written comments for submission to the DOT. Commissioner Sides said a minimal cost to mail notice of the public forum was approximately \$150. Commissioner Sides said some of the Planning Staff would need to be available. Commissioner Sides said Representative Warren had indicated he would probably hold a meeting whether the Commissioners agree to sponsor it or not.

Commissioner Ford said he got the impression the DOT was "going to do it or die". Commissioner Ford said the roundabout was not the way to go; however, unless the DOT heard from more people, the roundabout would be installed.

Commissioner Coltrain said it was good for the citizens to be involved; however, he said the roads were state roads and Representative Warren should facilitate the forum and the Board should show its support.

Commissioner Barber said a roundabout was not the way to go due to the rural area in which it would be placed. Commissioner Barber said the Board should work with its legislative delegation.

Chairman Mitchell said the Board had spent months going on record as saying the County did not want anything to do with roads and did not want to take over secondary road maintenance. Chairman Mitchell said the Board could potentially cause a great deal of confusion with citizens asking the Board to stop an issue the Board had no authority over. Chairman Mitchell felt the most appropriate venue was for Representatives Steen and Warren to call a meeting.

Commissioner Sides moved to support Representative Harry Warren in calling a county forum in that the County would pay the mailing costs of a letter and assist Representative Warren in facilitating the meeting but not sponsor the meeting.

Chairman Mitchell added that he had no problem making staff available if there was a necessity for it.

The motion was seconded by Commissioner Ford.

Commissioner Coltrain felt Representative Warren had funding to facilitate the forum. Commissioner Coltrain felt the Board should attend the forum in support of Representative Warren; however, he felt Representative Warren should conduct the forum with his own funding.

Upon being put to a vote, the motion on the floor passed 4-1 with Commissioner Coltrain dissenting.

6. CONSIDER APPROVAL OF BUDGET AMENDMENTS

Finance Director Leslie Heidrick presented the following budget amendments for the Board's consideration:

- Finance – To revise revenues and expenditures for Congestion Mitigation and Air Quality Improvement Grant - \$23,830
- Finance – To budget revenues and expenditures for FY 2011 Justice Assistance Grant - \$9,309
- Sheriff – Recognize \$7,204 available from Department of Justice for Bulletproof Vest Partnership Grant and increase proper expense account - \$7,204
- Sheriff – Recognize funds awarded by Department of Justice for Bullet Proof Vest Partnership Grant and budget to proper expense account - \$2,509
- Social Services – Increase expenditures and revenues to add Donna Beaver to the Northwoods system as a user - \$3,888
- Social Services – Establish expenditure and revenue line items to issue Low Income Energy Assistance payments to vendors on behalf of eligible

clients - \$176,655. In addition, received notification of increase in Crisis Intervention Payment allocation - \$140,081

Commissioner Coltrain moved approval of the budget amendments as presented. The motion was seconded by Commissioner Sides and passed unanimously.

7. CONSIDER APPROVAL OF BOARD APPOINTMENTS

SALISBURY ROWAN HUMAN RELATIONS COUNCIL

There are three (3) vacancies and the following applications were received:

- Mary Frances Edens for reappointment
- Valeria Levy

The terms would be for three (3) years beginning November 1, 2011 and expiring October 31, 2014.

- Seth Labovitz has submitted an application for reappointment.

The term would be for three (3) years beginning December 1, 2011 and expiring November 30, 2014.

Commissioner Barber nominated Mary Frances Edens and Seth Labovitz and Valeria Levy and the nomination carried unanimously.

Commissioner Barber said he would like to ask the Clerk to request additional information regarding the board application process. Commissioner Barber said applicants should list whether they had been delinquent with payment of property taxes during the last 5 years and he also requested that applicants state if they had any felony convictions.

A brief discussion ensued and the majority of the Board did not favor requesting information concerning an applicant's property tax payments but did support the request for notification of any felony convictions.

County Attorney Jay Dees suggested that due to the cost and time involved for Staff, the Board modify the application and add a sworn statement concerning felony convictions in the form of an affidavit, that the information contained in the application was true and accurate.

Commissioner Barber accepted Mr. Dees' suggestion.

Support for adding the issue of delinquent property taxes to the board application failed 1-4 with Commissioners Mitchell, Ford, Coltrain and Sides dissenting.

ROWAN COUNTY JURY COMMISSION

Jeffrey Cox has submitted an application for reappointment.

The term would be for two (2) years beginning December 1, 2011 and expiring November 30, 2013.

Commissioner Barber nominated Jeffrey Cox and the nomination carried unanimously.

ROWAN COUNTY LANDMARKS COMMISSION

There are three (3) vacancies and the following applications have been submitted for consideration:

- Elizabeth Cox (Currently serves on ZBA; also submitted an application for the Personnel Commission.)
- Belinda Crisco

The terms would be for three (3) years beginning December 1, 2011 and expiring November 30, 2014.

Commissioner Barber nominated Belinda Crisco and the nomination carried unanimously.

ROWAN COUNTY PERSONNEL COMMISSION

There are two (2) vacancies and an application has been submitted for consideration by Elizabeth Cox. (Currently serves on ZBA; also submitted an application for the Historic Landmarks Commission.)

The term would be for four (4) years beginning December 1, 2011 and expiring November 30, 2015.

Commissioner Coltrain nominated Elizabeth Cox and the nomination passed unanimously.

POOLETOWN VFD FIRE COMMISSIONERS

There are three (3) vacancies and the following applications have been submitted for reappointment:

- Jimmy Carver
- Gary Bostian
- Terry Leach

The terms would be for two (2) years beginning December 1, 2011 and expiring November 30, 2013.

Commissioner Coltrain nominated Jimmy Carver, Gary Bostian and Terry Leach and the nominations passed unanimously.

8. ADJOURNMENT

There being no further business to come before the Board, Commissioner Coltrain moved to adjourn at 4:15 pm. The motion was seconded by Commissioner Barber and passed unanimously.

Respectfully Submitted,

Carolyn Athey, CMC, NCCCC
Clerk to the Board/Assistant to the County Manager